

Chang, Lisa

From: Hanft, Sally
Sent: Wednesday, September 04, 2013 10:44 AM
To: Mendelman, Krista; Castner, Chris; Byron, Carrie; Chang, Lisa; Bonifaci, Angela; Wilcox, Michelle; Rylko, Michael; Bonifacino, Gina
Subject: RE: More on this (discard if not interested:) RE: Paperwork Reduction Act/Information Collection Rule requirements?

Krista – you are right. Sorry I did not reply earlier to these emails – have been trying to catch up. I went back to my records when there was the question of changing the PSP stewardship agreement from a cooperative agreement to a grant because the Partnership was going to conduct surveys. We did convert the agreement to a grant.

The NEP guidance does include information on this issue. The Hdqs contact was the one who changed his thinking from his decision regarding the WMA agreements.

I went back and looked at my documentation on this issue. I thought we had asked the question about subawardees but did not find anything. Match funding applies as well to this requirement – see email below. It seems if subawardees are using federal funds to conduct a survey that the same rules would apply as for the LO.

Email 2012 – Spencer did confer with Jim Drummond at the time.
Hi Sally,

As promised, I looked into whether the use of state matching funds counted as being subject to the PRA. Based on the email trail from OGC below it would appear that yes, state matching funds become part of the cooperative agreement, and as such their use does imply EPA sponsorship and thus subjection to the PRA.

So unfortunately that doesn't provide a more favorable route to doing the surveys. There would have to be other NEP funding outside the cooperative agreement to escape the purview of the Paperwork Reduction Act.

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Maybe we should be contacting Spencer Clark in Hdqs for further clarification.

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From: Mendelman, Krista
Sent: Wednesday, September 04, 2013 10:13 AM
To: Castner, Chris; Byron, Carrie; Chang, Lisa; Bonifaci, Angela; Wilcox, Michelle; Rylko, Michael; Hanft, Sally; Bonifacino,

Gina
Subject: RE: More on this (discard if not interested:) RE: Paperwork Reduction Act/Information Collection Rule requirements?

Hi Chris, Not to beat a dead horse but below is just a bit more context... It is not related to the subaward question but does relate to grants vs. cooperative agreements.

Your conclusion below is the logical conclusion...not to require it from our "grantees". This is the conclusion that HQ came to back in 2010 when we started through the approval process for 8 of the WMA cooperative agreements. At the time there was a blanket statement that if the agreement was a cooperative agreement, the awardee would need to go through the ICR process. However, HQ looked at the situation under the WMA cooperative agreements, they said we didn't have to go through the process because EPA didn't ask for the surveys and we were not going to be involved in developing or carrying out the surveys. So we did not do go through an approval process for those grantees and did not condition their agreements. However, it is my recollection that in 2011 or 2012 that a different decision was made by the NEP program in which they said that any cooperative agreements doing surveys would need to go through the ICR process. They went back to the blanket determination that a cooperative agreement means that EPA will be substantially involved and assumed that involvement includes any surveys under that agreement. I think that is why there remains some confusion over this issue.

Just as an FYI. I did confer with Tony earlier in the summer about one of the WMA cooperative agreements who is doing a survey and we decided to let the HQ decision on the WMA agreements stand even in light of the later NEP decision. We would not require the grantee to go through the process since EPA didn't ask for the survey and we were not involved in carrying it out.

Krista

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From: Castner, Chris
Sent: Wednesday, September 04, 2013 9:43 AM
To: Byron, Carrie; Chang, Lisa; Bonifaci, Angela; Wilcox, Michelle; Mendelman, Krista; Rylko, Michael; Hanft, Sally; Bonifacino, Gina
Subject: More on this (discard if not interested:) RE: Paperwork Reduction Act/Information Collection Rule requirements?

For anyone interested –
I found the attached document while doing a search on EPA's ICR website: <http://intranet.epa.gov/icrintra/search.html>

See page 24- 25 , excerpts of which I have copied and pasted below:

c. When is an agency a sponsor of a grantee? In general, collections of information conducted by recipients of Federal grants do not require OMB approval. On the other hand, an agency is the sponsor of a collection of information undertaken by a recipient of a Federal grant, if the collection meets one or both of the following two conditions: (1) the grant recipient is collecting information at the specific request of the sponsoring agency, 65 or (2) the terms and conditions of the grant require that the sponsoring agency specifically approve the collection of information or the collection procedures. If one or both of these conditions is met, the agency sponsoring the collection needs to seek and obtain

OMB approval, and the grantee needs to display the OMB control number on the collection instrument.

In light of this, I'm now not inclined to require ICRs of our direct grantees either. (unless either of the 2 conditions described are applicable)

Chris

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From: Byron, Carrie
Sent: Wednesday, August 28, 2013 4:49 PM
To: Chang, Lisa; Castner, Chris; Bonifaci, Angela; Wilcox, Michelle; Mendelman, Krista; Rylko, Michael; Hanft, Sally; Bonifacino, Gina
Subject: RE: Paperwork Reduction Act/Information Collection Rule requirements?

Hi all,

Chris and I had a conversation about this recently and he pointed me to this document that Dan Steinborn prepared when the LO agreements were being developed listing which T&Cs passed through to subawards: [G:\Baker\1 PUGET SOUND TEAM\Grants\Grants References, training, other resources\Pass-thru Conditions rev 3-7 DIS TRF.docx](#)

This document indicates that this particular T&C does not pass on to subawardees. In fact that's what I just told the Marine and Nearshore LO when they launched their Social Marketing subaward recently, so it would be good to get that information soon.

Thanks!

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From: Chang, Lisa
Sent: Wednesday, August 28, 2013 4:18 PM
To: Castner, Chris; Bonifaci, Angela; Wilcox, Michelle; Mendelman, Krista; Byron, Carrie; Rylko, Michael; Hanft, Sally; Bonifacino, Gina
Subject: Paperwork Reduction Act/Information Collection Rule requirements?

Hi all,

I have a situation where a Tribal LO subawardee project involves a survey. Although the "Paperwork Reduction Act/Information Collection Rule" programmatic T&C is in some of our Puget Sound cooperative agreements, for some reason, it was not included in the Tribal LO award.

My understanding is that regardless of whether a Federal requirement is explicitly captured in a T&C in the award document, the recipient is required to comply with all applicable Federal requirements – which would mean that PRA/ICR is applicable to the LOs.

Furthermore, my understanding is that this requirement would flow down to subawardees as well.

Thoughts?

L